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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

In re:

JOSEPH P. PALMISANO AND AMY K.  
PALMISANO,

Debtors.

Chapter 11

Case No. 2:09-bk-29570-GBN

DEBTORS' PLAN OF  
REORGANIZATION

Debtors, JOSEPH P. PALMISANO AND AMY K. PALMISANO, as  
Debtors-in-Possession ("Debtors"), in the above bankruptcy case,  
hereby submit to the Bankruptcy Court and the creditors of this  
Chapter 11 estate (the "Estate") the following Chapter 11 Plan of  
Reorganization ("Plan") pursuant to 11 U.S.C. §1121(a).

ARTICLE 1

INTRODUCTION

Debtors filed a voluntary petition under Chapter 11 of the  
United States Bankruptcy Code on November 17, 2009. The Plan  
provides for treatment of the secured and unsecured debt of the  
Debtors. The Plan also provides for the retention of the Debtors'  
Assets in consideration of the Debtors' submitting portions of



1 their future income to funds the Chapter 11 Plan for a period of  
2 three years from the Effective Date of Plan Confirmation. All  
3 creditors are encouraged to consult the Disclosure Statement which  
4 was prepared by the Debtors before voting to accept or reject the  
5 Plan.

6  
7 NO SOLICITATION MATERIAL OTHER THAN THE DISCLOSURE STATEMENT  
8 AND RELATED MATERIALS TRANSMITTED HERewith HAVE BEEN APPROVED OR  
9 AUTHORIZED BY THE BANKRUPTCY COURT AND THE BANKRUPTCY CODE IN  
10 SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN.

## 11 ARTICLE 2

### 12 DEFINITIONS

13 Terms used in this Plan have the same meaning as they do in  
14 the United States Bankruptcy Code or the Federal Rules of  
15 Bankruptcy Procedure or as specifically defined in the Plan and/or  
16 the Disclosure Statement (the "Disclosure Statement"). These terms  
17 are a substantial and operative part of the Plan.

18 2.2. Administrative Claim: A Claim for payment of an  
19 administrative expense of a kind specified in 11 U.S.C. § 503(b)  
20 or § 1114(e)(2) and entitled to priority pursuant to 11 U.S.C. §  
21 507(a)(1), including, without limitation (a) the actual, necessary  
22 costs and expenses of preserving the Estates or administering the  
23 Chapter 11 Case; (b) any actual and necessary post-petition  
24 expenses of the operating Debtors; (c) all professional fee Claims  
25 to the extent approved by the Bankruptcy Court pursuant to interim  
26 and final allowances in accordance with the Bankruptcy Code § §  
27 105, 330, 331, or 503; (d) all fees and charges assessed against  
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1 the Estates under 28 U.S.C. § 1930; (e) payments for retiree  
2 benefits required to be made before a plan is confirmed under 11  
3 U.S.C. § 11 14(e)(2); and (I) all allowed Claims that are entitled  
4 to be treated as Administrative Claims pursuant to the Final Order  
5 of the Bankruptcy Court under 11 U.S.C. § 46(c)(2)(A). 2.3.

6 Administrative Claims Bar Date: The deadline by which  
7 Administrative Claimants must file applications for approval and  
8 payment of Administrative Claims, which date shall be 30 days from  
9 the Effective Date.

10 2.5. Allowed Claim: Any claim or portion thereof (a) that has  
11 been allowed by a final order; or (b) as to which, on or by the  
12 Effective Date, (i) no proof of claim has been filed with the  
13 Bankruptcy Court and (ii) the liquidated and non-contingent amount  
14 of which is listed in the Bankruptcy Schedules filed in connection  
15 with this Bankruptcy Case, other than a claim that is scheduled at  
16 zero, is in an unknown amount, or is disputed; or (c) for which a  
17 proof of claim in a liquidated amount has been timely filed with  
18 the Bankruptcy Court pursuant to the Bankruptcy Code, any final  
19 order of the Bankruptcy Court or other applicable bankruptcy law,  
20 and as to which either (i) no objection to its allowance has been  
21 filed within the periods of limitation fixed by the Plan, the  
22 Bankruptcy Code or by any order of the Bankruptcy Court or (ii)  
23 any objection to its allowance has been settled or withdrawn, or  
24 has been denied by a final order of the Court; or (d) that is  
25 expressly allowed in a liquidated amount in the Plan. Unless  
26 otherwise specified in this Plan, an Allowed Claim shall not, for  
27 purposes of computation or distribution under the Plan, include  
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1 interest, fees or penalties on the amount of such Allowed  
2 Claim from and after the Petition Date.

3 2.6. Assets: Each and every item of property of the Estates  
4 as of the Effective Date, whether tangible or intangible, legal or  
5 equitable, liquidated or unliquidated.

6 2.7. Avoidance Actions: Causes of action which are available  
7 to the Debtors' bankruptcy Estates pursuant to § 544, 547, 548,  
8 549 and/or 550 of the Bankruptcy Code.

9 2.8. Bankruptcy Cases: The bankruptcy proceedings commenced  
10 by the Debtors filing of their voluntary petitions for relief  
11 under chapter 11 of the Bankruptcy Code on November 17, 2009 at  
12 Case No. 2:09-bk-29570-GBN.

13 2.9. Bankruptcy Code: Title 11 of the United States Code, as  
14 occasionally amended and applicable to the Chapter 11 Bankruptcy  
15 Case. ("Code" or "Bankruptcy Code")

16 2.10. Bankruptcy Court or Court: The United States Bankruptcy  
17 Court for the District of Arizona, or such other court that  
18 exercises jurisdiction over the Bankruptcy Cases.

19 2.11. Bankruptcy Rules: The Federal Rules of Bankruptcy  
20 Procedure promulgated under 28 U.S.C. § 2075, and the Local Rules  
21 of Bankruptcy Procedures for the District of Arizona, as  
22 applicable during the term of the Bankruptcy Cases.

23 2.13. Claim: A claim against the Debtors or their property as  
24 defined in 11 U.S.C. §101(5), including: (a) a right to payment,  
25 whether or not such right is reduced to judgment, liquidated,  
26 unliquidated, fixed, contingent, matured, unmatured, disputed,  
27 undisputed, legal, equitable, secured or unsecured, which right  
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1 arose or accrued prior to the date of confirmation; or (b) a right  
2 to an equitable remedy for breach of performance, if such breach  
3 gives rise to a right of payment whether or not such right to an  
4 equitable remedy is reduced to judgment, fixed, contingent,  
5 matured, unmatured, disputed or undisputed, secured or unsecured,  
6 where such right arose or accrued prior to confirmation; or (c) a  
7 claim arising under 11 U.S.C. §502(g).

8       2.14. Claims Bar Date: A date established by court order  
9 under which proofs of claim must be filed (except for Claims  
10 arising from the rejection of executory contracts or leases and  
11 Claims arising from recoveries pursuant to 11 U.S.C. § 550 in  
12 order to become allowed Claims and to participate in distributions  
13 under the Plan. The Claims Bar Date shall be set in the notice of  
14 the Disclosure Statement filed concurrently herewith and will be  
15 the first date set for the confirmation hearing

16       2.15. Class: Each of the categories/classifications of Claims  
17 or Equity Interest described in Article 3 of this Plan.

18       2.16. Confirmation: The entry by the Bankruptcy Court of the  
19 Confirmation Order confirming the Plan in accordance with the  
20 Bankruptcy Code.

21       2.17. Confirmation Date: The date the Clerk of the Bankruptcy  
22 Court enters the Confirmation Order on the Bankruptcy Court's  
23 docket.

24       2.18. Confirmation Hearing: The hearing held by the  
25 Bankruptcy Court regarding confirmation of the Plan, including any  
26 adjournment or continuation of that hearing from time to time.

27       2.19. Confirmation Order: An order of the Bankruptcy Court  
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1 confirming the Plan in accordance with the provisions of chapter  
2 11 of the Bankruptcy Code which is not subject to a pending motion  
3 to clarify, vacate, rehear, modify, amend or stay.

4       2.21. Deficiency Claim: An unsecured Claim against the  
5 Debtors or the Estates which amounts to the difference between the  
6 value of a secured creditor's collateral, as determined by the  
7 Bankruptcy Court or per agreement of the parties, and the amount  
8 of the secured creditor's total Claim as timely filed and allowed  
9 by the Court.

10       2.22. Disclosure Statement: The Disclosure Statement filed by  
11 the Debtors as required pursuant to § 1125 of the Bankruptcy Code,  
12 including but not limited to, any further supplements,  
13 restatements, amendments, modifications, or additional disclosures  
14 (if any) provided by the Debtors to comply with § 1127 of the  
15 Bankruptcy Code or orders of the Bankruptcy Court.

16       2.23. Disbursing Agent: The Debtor, or a person or entity  
17 designated by the Debtor, who shall make Distributions to holders  
18 of Allowed Claims under the Plan,

19       2.24. Distribution: The property required by the Plan and  
20 Confirmation Order to be distributed to holders of Allowed Claims,

21       2.25. Effective Date: The first day of the month following  
22 the Confirmation Date.

23       2.27, Estate: The substantively consolidated bankruptcy  
24 estates of the Debtors created under 541 of the Bankruptcy Code.

25       2.28. Executory Contract: Every unexpired lease and other  
26 contract that is subject to being assumed or rejected by the  
27 Debtors under § 365 of the Bankruptcy Code pursuant to the Plan or  
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1 pursuant to a separate motion,

2 2.29. Final Order: Any order or judgment of the Bankruptcy  
3 Court as to which (a) the time for appeal has expired and no  
4 appeal has been timely taken; and (b) any appeal that has been  
5 timely taken has been finally determined or dismissed.

6 2.31. General Unsecured Claim: Any Claim against the Debtors'  
7 other than a Secured Claim, an Administrative Claim, a Priority  
8 Tax Claim, a Priority Claim, or an equity related  
9 Claim.

10 2.33. Impaired Claim: A Claim that is impaired within the  
11 meaning of 11 U.S.C. § 1124. Generally, those Claims in which the  
12 legal, equitable, or contractual rights of its holder are altered  
13 or affected unless such Claim is reinstated and paid as set forth  
14 in 11 U.S.C. § 1124.

15 2.34. Person: An individual, a corporation, a limited  
16 liability company, a partnership, an association, a joint stock  
17 company, a joint venture, an estate, a trust, an unincorporated  
18 organization, or a government or any political subdivision  
19 thereof, or any other entity.

20 2.35. Petition Date: November 17, 2009.

21 2.36. Plan: The Debtors' Plan of Reorganization, including  
22 any amendments or modifications made in accordance with the  
23 applicable provisions of the Bankruptcy Code.

24 2.37. Plan Distribution Date: The first day of the month  
25 following the Effective Date and payable on the first day of each  
26 month thereafter for sixty (60) months.

27 2.38. Debtors: Joseph P. Palmisano and Amy K. Palmisano, as  
28

1 debtors-in possession, also referred to as Debtors.

2 2.39. Priority Claim: Any Claim entitled to priority  
3 treatment pursuant to 11 U.S.C. § 507(a).

4 2.40. Priority Tax Claim: A Priority Claim entitled to  
5 priority treatment under 11 U.S.C. 507 (a) (8).

6 2.42. Professionals: Any and all professionals that have been  
7 retained, with Bankruptcy Court approval, to assist in the conduct  
8 of the Bankruptcy Cases or to provide professional services for a  
9 specified purpose, all in accordance with § 327 of the Bankruptcy  
10 Code.

11 2.43. Professional Charges: The allowed interim and final  
12 professional fees and expenses charged by the Professionals.

13 2.45. Schedules: The schedules of assets and liabilities, and  
14 statement of financial affairs filed by both Debtors with the  
15 Bankruptcy Court pursuant to Bankruptcy Rule 1007, as such  
16 schedules and statements may be amended, modified, and  
17 supplemented from time to time.

18 2.46. Secured Claim: An Allowed Claim of a Person who has a  
19 lien against property of the Estate which is unavoidable and has  
20 been properly perfected according to state or federal law to the  
21 extent of the value of the property securing the allowed Claim  
22 pursuant to 11 U.S.C. § 506(a).

23 2.47. Unsecured Claim: Any Claim other than an Administrative  
24 Expense Claim, a Priority Claim, a Secured Claim, a Claim that has  
25 been subordinated, or an Allowed Interest.

26 2.48. Interpretation. Rules of Construction, and Other Terms:

27 (a) Any term used in this Plan that is not defined  
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1 above, whether in Article 2 or elsewhere, but that is used in the  
2 Bankruptcy Code or the Bankruptcy Rules, has the meaning assigned  
3 to that term in the Bankruptcy Code or the Bankruptcy Rules and  
4 shall be construed in accordance with the rules of construction  
5 for the Bankruptcy Code.

6 (b) Unless specified otherwise in a particular  
7 reference, a reference in this Plan to an article is a reference  
8 to that article of this Plan.

9 (c) Unless otherwise provided, any reference in this  
10 Plan to an existing document or instrument means such document or  
11 instrument as it may have been amended, modified, or supplemented  
12 from time to time.

13 (d) For the purposes of this Plan and its defined terms,  
14 the singular and plural uses of defined terms and the conjunctive  
15 and disjunctive uses of defined terms will be fungible and  
16 interchangeable (unless the context otherwise requires); and the  
17 defined terms will include masculine and feminine.

18 (e) In addition to the foregoing, the rules of  
19 construction set for in § 102 of the Bankruptcy Code shall apply  
20 to this Plan.

21 (f) In computing any period of time prescribed or  
22 allowed by this Plan, the provisions of Bankruptcy Rule 9006(a)  
23 shall apply.

24 (g) All exhibits to this Plan are incorporated into this  
25 Plan, and shall be deemed to be included in this Plan, regardless  
26 of when filed with the Court.

ARTICLE 3

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

Holders of all Claims, as defined in 11 U.S.C. § 101(4), against the Debtors of whatever nature, whether or not scheduled, liquidated or unliquidated, absolute or contingent, including all Claims arising from the rejection of Executory Contracts, shall be bound by the provisions of this Plan and are hereby classified as provided below. As of the Confirmation Hearing, any Class of Claims that does not contain any Creditor's Claims will be deemed deleted automatically from the Plan; and any Class of Claims that does not contain an Allowed Claim (or a Claim temporarily or provisionally allowed by the Bankruptcy Court for voting purposes) will be deemed automatically deleted from the Plan with respect to voting on confirmation of the Plan. A Claim or Equity Interest is in a particular Class only to the extent the Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest as defined herein.

3.1 Class 1: Administrative Claims. Class 1 Claims shall consist of all administrative expenses entitled to priority under 11 U.S.C. § 507(a)(1). Persons who have incurred administrative expenses pursuant to 11 U.S.C. § 507(a)(1), and whose Claims have been allowed as Administrative Claims shall receive cash on account and in the amount of such Administrative Claim either (a) on the Effective Date; or (b) when due in accordance with the terms of an agreement between the Debtors and such claimant. Professionals employed at the expense of the Debtors shall not

1 receive any compensation in cash.

2 3.2 Class 2: Priority Tax Claims. Class 2 Claims shall  
3 consist of all Priority Tax Claims. Priority Tax Claims are  
4 certain unsecured income, employment and other taxes described by  
5 11 U.S.C. § 507(a)(8). The Code requires that each holder of a  
6 Priority Tax Claim, receive the present value of such claim in  
7 deferred cash payments, over a period not exceeding six years from  
8 the date of the assessment of the tax, If Allowed Claims are made  
9 and qualify as 11 U.S.C. § 507(a)(8) Priority Tax Claims they will  
10 be paid as a Priority Tax Claim thirty six (36) months after  
11 confirmation.

12  
13 3.3. Class 3: Secured Claim of Maricopa County  
14 Treasurer re Melody Court. This property tax claim is  
15 treated as a Class 3 Claim. The Pre-petition claim amount  
16 is listed in Debtors' Schedules as \$2,480.95. The  
17 Maricopa County Treasurer's Office Proof of Claim is also  
18 for \$2,480.95. Debtors shall pay the Pre-Petition Secured  
19 Claim in four annual installments of \$620.23, with the  
20 first payment commencing one year of the Effective Date  
21 of the Plan.  
22  
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25 3.4. Class 4. Secured Claim of Tierra Ranchos HOA Re  
26 Melody Court. This Claim is treated as a Class 4 Claim.  
27  
28

1 The Pre-petition claim amount is listed in Debtors'  
2 Schedules as \$528.66. Debtors shall pay the Secured Pre-  
3  
4 Petition Claim within one year of the Effective Date of  
5 the Plan.  
6

7 3.5. Class 5. JPMorgan Chase, NA re: Melody Court

8 This Claim is treated as a Class 5 Secured Claim to the  
9 extent of \$597,519.05. The balance of Chase's Claim is  
10 treated as an unsecured Non Priority Claim under Class  
11  
12 11. Chase has a first Note and Deed of Trust dated  
13 January 22, 2007, securing Melody Court, and every other  
14 indebtedness of Debtors to Chase. Chase filed a Proof of  
15 Claim in the amount of \$995,067.90. Debtors shall pay a  
16 Secured Claim of \$597,519.05 in monthly installments of  
17 \$3,207.61 including interest at the rate of 5% per annum,  
18  
19 commencing on the 1<sup>st</sup> day of the second month after  
20 Confirmation of Debtors' Plan of Reorganization. Debtors  
21 shall continue to make adequate protection payments until  
22 Plan Confirmation. Adequate Protection Payments shall be  
23 applied as interest on the Secured Claim and shall be  
24 deductible by the Debtors. Chase shall prepare a Modified  
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1 Note and Deed of Trust securing the Debtors' Melody Court  
2 Residence in the above amount and terms. If not sooner  
3 paid, the Modified Note and Deed of Trust shall be paid  
4 in full twenty years from the date of Plan Confirmation.  
5

6  
7 3.6. GMAC Mortgage has a second Note and 2<sup>nd</sup> DOT  
8 securing the Melody Court residence. GMAC shall be  
9 treated as a Class 11 unsecured Non-Priority Claim to the  
10 full extent of its claim. In Debtors' Schedules, GMAC's  
11 claim is listed as \$181,722.61. GMAC shall release its  
12 2<sup>nd</sup> DOT securing the Melody Court residence upon Plan  
13 Confirmation.  
14  
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16  
17 3.7. JPMorgan Chase has a Note and 3<sup>rd</sup> DOT securing  
18 the Melody Court residence. JPMorgan Chase shall treated  
19 as a Class 11 unsecured Non-Priority Claim to the full  
20 extent of its claim. In Debtors' Schedules, JPMorgan  
21 Chase's claim is listed as \$230,310.96. JPMorgan Chase  
22 shall release its 3rd DOT securing the Melody Court  
23 residence upon Plan Confirmation.  
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1        3.8. Class 6. Maricopa County Treasurer re 2530 South  
2 Rural Road, Tempe, AZ, This Claim is treated as a Class 6  
3 Secured Claim. The Pre-petition claim amount is listed in  
4 Debtors' Schedules as \$15,217.81. The Maricopa County  
5 Treasurer's Office Proof of Claim is also for \$19,408.85.  
6  
7 Debtors shall pay the Pre-Petition Secured Claim in four  
8 annual installments of \$4,852.21, with the first payment  
9 commencing within one year after the Effective Date of  
10 the Plan.  
11  
12

13        3.9. Class 7. JPMorgan Chase has a first Note and 1<sup>st</sup>  
14 DOT securing the property located at 2530 South Rural  
15 Road, Tempe, AZ. This Claim is treated as a Class 7  
16 Secured Claim of \$427, 979.50 less the Maricopa County  
17 Treasurer Secured Claim of \$19,408.85, or \$408,570.65,  
18 shall be treated as a Secured Claim. The balance of any  
19 claim by Chase shall be treated as an unsecured Non-  
20 Priority Claim. Debtors shall pay a Secured Claim of  
21 \$408,570.50 in monthly installments of \$2,508.98  
22 including interest at the rate of 5.5% per annum,  
23 commencing on the 1<sup>st</sup> day of the second month after  
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1 Confirmation of Debtors' Plan of Reorganization. Debtors  
2 shall continue to make adequate protection payments until  
3 Plan Confirmation. Adequate Protection Payments shall be  
4 applied as interest on the Secured Claim and shall be  
5 deductible by the Debtors. Chase shall prepare a Modified  
6 Note and Deed of Trust securing the Debtors' property  
7 located at 2530 S. Rural Road property in the above  
8 amount and terms. If not sooner paid, the Modified Note  
9 and Deed of Trust shall be paid in full ten years from  
10 the date of Plan Confirmation.  
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14  
15 3.10. Class 8. Maricopa County Treasurer re 474  
16 West San Remo, Gilbert, Arizona This Claim is treated as  
17 a Class 8 Secured Claim. The Maricopa County Treasurer's  
18 Office Proof of Claim is for \$5,230.26. Debtors shall pay  
19 the Pre-Petition Claim based upon the Proof of Claim in  
20 four annual installments of \$1,307.56 with first  
21 installment payable within one year of the Effective  
22 Date.  
23  
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25  
26 3.11. Class 9. JPMorgan Chase 1<sup>st</sup> DOT on the West San  
27 Remo, Gilbert, AZ. This Claim shall be treated as a Class  
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1 9 Secured Claim to the extent it is less than \$150,000,  
2 taking into account unpaid property taxes to the Maricopa  
3 County Treasurer that are Class 8 Secured Claims. Chase  
4 shall have an Allowed Secured Claim of \$144,769.74. Any  
5 additional amount due shall be treated as a Class 11  
6 unsecured Non-Priority Claim. Chase's Secured Claim on  
7 the West San Remo Property shall be payable by a Modified  
8 1<sup>st</sup> Note and Deed of Trust securing the West San Remo  
9 Property. Debtors shall pay the Secured Claim of  
10 \$144,769.74 in monthly installments of \$777.15 including  
11 interest at the rate of 5% per annum, commencing on the  
12 1<sup>st</sup> day of the second month after Confirmation of Debtors'  
13 Plan of Reorganization. Debtors shall continue to make  
14 adequate protection payments until Plan Confirmation.  
15 Adequate Protection Payments shall be applied as interest  
16 on the Secured Claim and shall be deductible by the  
17 Debtors. If not sooner paid, the Modified Note and Deed  
18 of Trust shall be paid in full ten years from the date of  
19 Plan Confirmation.  
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1           3.12. Class 10. Allowed Unsecured Non-Priority Claims  
2 under \$2,000.00.       These claims are treated as Class 10  
3  
4 Administrative Convenience Class Claims, and shall be  
5 paid 50% of such Allowed Claim. Class 10 Administrative  
6 Convenience Class Claims shall be paid within one year of  
7  
8 the Effective Date of the Plan.

9           3.13. Class 11. Unsecured Non-Priority Claims-  
10  
11 Debtors have listed \$450,000 of unsecured Claims.  
12 However, substantial amounts of these claims are listed  
13 as Contingent, Unliquidated and/or Disputed in Debtors'  
14 Schedules, and Debtors anticipate that many of these  
15 claims will not be allowed. Substantial amounts of  
16 Secured Claims are being crammed down/substantially  
17 reduced as Secured Creditors Claims due to lack of equity  
18 in the properties that secure those claims. To the extent  
19 such creditors are unsecured or undersecured, they are  
20 being treated as Unsecured Non-Priority Creditors.  
21  
22 Allowed Unsecured Non-Priority Claims are treated as  
23  
24 Class 11 Unsecured Non-Priority Claims. Class 11 Claims  
25 shall be paid in four annual installments each of 1.5% of  
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1 the Allowed Unsecured Non-Priority Claim. The first  
2 payment shall be paid within one year of the Effective  
3 Date of the Plan, and subsequent payments on the  
4 anniversary date thereof. The total payments shall be 65  
5 of the Allowed Unsecured Non-Priority Claim.  
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7

8 3.14 Class 12. Debtors' Equity Interest. The  
9 Debtors shall retain their equity interest under the Plan  
10 by retaining their ownership interest in the Plan Assets.  
11 Debtors shall make Plan Contributions in consideration  
12 for retention of their interest in Plan Assets.  
13

14 3.15. Effect of a Secured Creditor's Election under §  
15 1111(b). Section 1111(b) of the Bankruptcy Code covers  
16 the treatment of certain Claims and Interests of  
17 Creditors. Specifically, § 1111(b) provides an option  
18 (the "Election") for the undersecured nonrecourse  
19 creditors being dealt with in the Plan (hereinafter  
20 sometimes the "Undersecured Creditors") to have their  
21 Deficiency Claims treated as secured debt, a deviation  
22 from the bifurcation provisions of 11 U.S.C. §506(a). In  
23 short, the Bankruptcy Code permits these Undersecured  
24 Creditors to choose between two possible treatments with  
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1 respect to their Deficiency Claims. First, these  
2 Undersecured Creditors can have their Deficiency Claim  
3 treated as recourse Unsecured Claim, whereby they will  
4 have the right to vote their Claim in Class 11 (Allowed  
5 General unsecured Non-Priority Claims). Alternatively, these  
6 Undersecured Creditors can choose to have the entirety of their  
7 Claim treated as fully secured by their collateral.  
8

9  
10 11 U.S.C. §1111(b)(1)(A). With respect to the Undersecured  
11 Creditors, despite their nonrecourse status, the Plan provides  
12 they shall have an unsecured Deficiency Claim. However, when a  
13 Creditor makes the Election, such Creditor will, by virtue of the  
14 application of this statute, forego its Deficiency Claim and  
15 instead elect to have its entire Claim treated as if it were fully  
16 secured. In such case, the Debtors shall have the choice of either  
17 returning the collateral or of presenting the indubitable  
18 equivalent of the secured interest pursuant to §1129(b)(2)(A)(iii).  
19 If an Undersecured Creditor makes the Election, its Allowed  
20 Secured Claim is not treated the same as a fully Secured Claim.  
21 Rather, the Election gives rise to an "election claim" equal to  
22 its total claim but allotted special treatment for purposes of  
23 plan confirmation. In the event an Undersecured Creditor makes the  
24 Election, its Allowed Secured Claim will be equal to its total  
25 Claim, and in order for the Plan to comply with  
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1 § 1129(b)(2)(A)(i)(I), the lien is not stripped down by § 506(d).  
2 Subsection (II) of § 1129(b)(2)(A)(i) guarantees such an electing  
3 creditor a stream of payments equal to its total claim. However,  
4 the stream of payments need only have a present value "of at least  
5 the value of such holder's interest in the estate's interest in  
6 such property." To the extent applicable, if an Undersecured  
7 Creditor makes the Election, they will be afforded appropriate  
8 treatment.

9  
10 3.16 Executory Contracts:

11 3.16.1 Assumption of Executory Contracts: Debtors intend to  
12 assume their lease agreement with Palmisano & Associates, P.C.,  
13 for the Debtors property located at 2530 S. Rural Road, Tempe, AZ.

14  
15 3.16.2 Rejection of Executory Contracts: Unless otherwise  
16 specifically set forth herein, all Executory Contracts not  
17 previously rejected by prior Court order or by a motion for  
18 rejection filed prior to the conclusion of the Confirmation  
19 Hearing (as it is continued from time to time) will be rejected by  
20 the Debtors pursuant to the Confirmation Order. All executory  
21 contracts or unexpired leases rejected by the Debtors shall be  
22 treated as General Unsecured Creditors in Class 11, unless  
23 specified or allowed otherwise.

24  
25 3.16.3. Assumption of Other Executory Contracts: Before the  
26 Confirmation Hearing, the Debtors may file one or more motions  
27 identifying any Executory Contracts that they intend to assume.  
28

1 Such motions and the Bankruptcy Court's orders thereon will be  
2 deemed incorporated in the Plan. All Executory Contracts not  
3 otherwise assumed as provided herein will be rejected as of the  
4 Confirmation Date.

5  
6 3.16.4 Rejection Claims Bar Date: Every Claim asserted by a  
7 creditor arising from the rejection of an Executory Contract must  
8 be filed with the Bankruptcy Court no later than the first  
9 business day that is thirty (30) days after the Effective Date.  
10 Every such Claim that is timely filed will be treated under the  
11 Plan as a General Unsecured Claims, as treated in Class 11. Every  
12 such Claim that is not timely filed by the deadline stated above  
13 will be forever barred, unenforceable, and discharged, and the  
14 Creditor holding the Claim will not receive or be entitled to any  
15 distribution under the Plan on account of such Claim.  
16

#### 17 18 ARTICLE 4

#### 19 VOTING REQUIREMENTS AND NON-VOTING CLASSES

20 Creditors will vote to accept or reject this Plan.

21 4.1 Acceptance by a Class of Creditors: A class of creditors  
22 shall have accepted the Plan if the Plan is accepted by two-thirds  
23 in amount and more than one-half in number of the Allowed Claims  
24 of such class that have voted to accept or reject the Plan.

25 4.2 Acceptance by a Class of Interests: Class 12 shall have  
26 accepted the Plan as an unimpaired Class.

#### 27 ARTICLE 5

1                   PROVISION RESPECTING THE IMPAIRED CLASSES OF CLAIMS

2  
3           5.1 Impaired Classes: Claims in Classes 3 through 11 are  
4 Impaired under the Plan and are entitled to cast a ballot to  
5 accept or reject the Plan. Ballots will be distributed to holders  
6 of Impaired Claims entitled to vote on the Plan pursuant 11 U.S.C.  
7 § 1126.

8           5.2 Cramdown: If any Impaired class of Claims entitled to  
9 vote shall not accept this Plan by the requisite statutory  
10 majorities provided in Bankruptcy Code 11 U.S.C. § 1126(c), the  
11 Debtors reserve the right to request that the Bankruptcy Court  
12 confirm this Plan under 11 U.S.C. § 1129(b).

13           5.3 Treatment of Impaired Classes: The impaired classes shall  
14 be treated as described in Article 3.

15  
16                   ARTICLE 6

17                   SOURCE OF PAYMENTS

18  
19           The Debtors shall commit portions of four years of its post-  
20 Effective Date net income to pay Secured and Unsecured Claims.

21  
22                   ARTICLE 7

23                   GENERAL TERMS AND PROVISIONS

24  
25           7.1 As of the Confirmation Date, all of the property of the  
26 Estate of the Debtors shall be deemed transferred and vested in  
27 the Debtor. All such Debtors property shall no longer be  
28

1 considered property of the Estate as defined in 11 U.S.C. § 541  
2 and all such property shall be free and clear of liens, charges  
3 and claims of interest by creditors arising prior to the Effective  
4 Date of the Plan, except for as specifically provided in this  
5 Plan.

6 7.2 Upon Confirmation, all Claims and causes of action of the  
7 Debtors against other entities, including rights of Debtors-in-  
8 Possession under Chapter 11 of the Bankruptcy Code to recover any  
9 preference, transfer assets, or damage, shall vest in the Debtor.  
10 The Debtor and their attorneys may file at any time, up to two (2)  
11 years after the Plan Distribution Date, any action to recover or  
12 set aside any preference, transfer, assets or damages or to set  
13 aside any lien or encumbrance to which they may be entitled under  
14 the Bankruptcy Code. Pursuant to the Plan, the Debtor reserves the  
15 right to initiate such litigation post confirmation, for the  
16 benefit of the creditors of the Estate.

17 7.3 After the Confirmation Date, the Debtor shall manage its  
18 affairs without supervision of the Bankruptcy Court and may enter  
19 into such agreements, transfer, convey, encumber, use and/or lease  
20 its assets as the Debtor deems appropriate under the circumstances  
21 without the requirement of seeking approval from the Bankruptcy  
22 Court, Nothing in this provision shall impair liens and  
23 encumbrances which a holder has retained pursuant to the express  
24 terms of this Plan.

25 7.4 Upon the Effective Date, unless a stay has been entered  
26 relating to the Confirmation Order, the order for automatic stay  
27 described in 11 U.S.C. § 362(a) shall terminate; provided,  
28

1 however, except as otherwise expressly specified herein, that all  
2 creditors and claimants shall be enjoined from continuing with or  
3 commencing with any action or proceeding against the Debtors or  
4 guarantors of Debtors without further order of the Bankruptcy  
5 Court.

6 7.5 All Distributions of money under the Plan which are  
7 returned by the post office undelivered or which cannot be  
8 delivered due to a lack of current address shall be retained by  
9 Debtor in trust for the distributee; after the expiration of six  
10 (6) months from the date of the first attempted Distribution, the  
11 unclaimed monies and all Distributions will vest in Debtor, free  
12 of any Claim of the distributee.

13 7.6 Except as expressly specified herein, no creditor or  
14 claimant, whether secured, unsecured, priority, or non-priority  
15 shall be entitled to any fine, penalty exemplary or punitive  
16 damage, late charge, default interest or any other monetary charge  
17 ("Penalties") relating to or arising from any default deemed  
18 disallowed whether or not an objection is filed thereto. Unsecured  
19 creditors shall not be entitled to interest on their Claims,  
20 whether or not provided for in any agreements from and after the  
21 commencement of the case, unless otherwise expressly provided for  
22 in this Plan and shall not be entitled to any cost, expense, or  
23 attorneys' fees. Any and all Claims for Penalties are deemed  
24 disallowed whether or not an objection to such a Claim for  
25 Penalties is made.

26 7.7 Pursuant to 11 U.S.C. § 1141(a), notwithstanding 11  
27 U.S.C. § 506(d) and except as provided for in 11 U.S.C. § 1  
28



1 141(d)(2) and (d)(3), upon confirmation of the Plan the provisions  
2 of the Plan will bind the Debtor, ally entity issuing securities  
3 under the Plan, any entity acquiring property under the Plan, any  
4 creditor, whether or not the Claim or interest of such creditor is  
5 Impaired under the Plan and whether or not such creditor has  
6 accepted the Plan or filed a proof of claim,

7 7.8 Except as otherwise provided in the Plan or the  
8 Confirmation Order, the Confirmation Order acts as a satisfaction,  
9 release and discharge, effective as of the Confirmation Date, of  
10 any and all debts of the Debtors that arose at any time before the  
11 entry of the Confirmation Order, including but not limited to, all  
12 principal and any and all interest accrued thereon, pursuant to 11  
13 U.S.C. § 1141(d)(1). The discharge of the Debtors shall be  
14 effective as to each Claim regardless of whether a Proof of Claim  
15 thereof was filed, whether the Claim is an Allowed Claim, or  
16 whether the holder thereof votes to accept the Plan. In addition,  
17 any prepetition obligations of the Debtors dealt with in the Plan  
18 shall be considered "new obligations" of the Debtors. "New  
19 obligations" shall not be considered in default unless and until  
20 the Debtors' default on the "new obligations" pursuant to the  
21 terms of the Plan.

22 7.9 All Claims of a lien in any of Debtors' personal property  
23 shall be deemed released, terminated, and withdrawn, unless the  
24 creditor claiming a lien has filed a timely, formal and proper  
25 proof of claim with the Bankruptcy Court setting forth the basis  
26 and extent of the lien.

27 7.10 Upon payment of sums provided under the Plan, all Claims  
28

1 of any creditor of Debtors arising prior to the confirmation of  
2 the Plan against the Debtors shall be wholly released and  
3 discharged, and any actions or proceedings against the Debtors,  
4 including any judgment and judgment liens, shall be terminated,  
5 relinquished and released.

6 7.11 The Debtors' obligations to make any payment under this  
7 Plan may be discharged to the extent that such payment is made by  
8 any entity that is liable with the Debtors or has secured the  
9 Claim or the right to payment giving rise to the Debtors'  
10 obligation.

11 7.12 Classes of Claims and Equity Interests and Payment:  
12 There are various classes of claims and interests defined in this  
13 Plan. This Plan shall resolve all Claims against the Debtors and  
14 Equity Interests of whatever character, whether or not contingent  
15 or liquidated, and whether or not allowed by the Court under § 5  
16 02(h) of the Code, only those claims or interests allowed under §  
17 502(a) of the Code will receive a payment or distribution under  
18 this Plan. If a creditor holds more than one claim in one class,  
19 all of the claims of the creditor will be aggregated and the  
20 creditor will be entitled to one vote in the amount of all  
21 aggregated claims.

22 7.13 Claim Dispute Resolution: On the 30th day after the  
23 Effective Date, all persons claiming a Class 1 Administrative  
24 Claim (including for professionals employed pursuant to § 327 of  
25 the Bankruptcy Code) shall file an application seeking allowance  
26 of their claims with the Bankruptcy Court and serve a copy upon  
27 the Debtors' counsel, Any holder of a Class 1 Administrative Claim  
28

1 who fails to timely file the appropriate motion for payment of  
2 Administrative Claim shall be deemed to have waived its claim, and  
3 the claim will be disallowed. On or before the sixtieth (60th)  
4 calendar day after the Effective Date, the Debtors shall file  
5 their objections to any proof of claim or interest filed, or  
6 deemed filed herein. Any objection not timely filed shall be  
7 deemed waived and abandoned, and all proofs of claim or interests  
8 filed, or deemed filed, to which an objection is not filed shall  
9 be deemed allowed. The Court shall resolve all objections at a  
10 separate hearing. Any claims or interests not timely filed or  
11 allowed shall be discharged by the Confirmation Order,

12       7.14. Notices: Any notice required or permitted to be  
13 provided under the Plan will be in writing and served by regular  
14 postage prepaid first-class mail, hand-delivery, facsimile, or e-  
15 mail.

16       7.15. Closing of the Case: At such time as the Plan has been  
17 fully administered (substantially consummated), the Debtors will  
18 file an application for Final Order showing that the Plan has been  
19 fully administered.

20       7.16. Exculpation and Limitation of Liability: Neither the  
21 Debtors, nor any of their respective present or former advisors,  
22 attorneys, or agents will have or incur any liability to any  
23 holder of a Claim or Equity Interest or any other party-in-  
24 interest or any of their respective agents, employees,  
25 representatives, financial advisors, attorneys or affiliates, or  
26 any of their successors or assigns for any act or omission in  
27 connection with, relating to, or arising out of the Bankruptcy  
28

1 Cases, the extension of credit to the Debtors during the  
2 Bankruptcy Cases pursuant to debtor-in-possession financing or the  
3 use of cash collateral, efforts to obtain confirmation of the  
4 Plan, the consummation of the Plan, or the administration of the  
5 Plan or the property to be distributed under the Plan, whether now  
6 known or hereafter discovered, except for their willful  
7 misconduct, and in all respects such parties will be entitled to  
8 rely reasonably upon the advice of counsel with respect to their  
9 duties and responsibilities under the Plan or in the context of  
10 the Bankruptcy Cases, Notwithstanding any other provisions in the  
11 Plan, no holder of a Claim, other party-in-interest, or none of  
12 their respective agents, employees, representatives, financial  
13 advisors, attorneys, or affiliates, and no successors or assigns  
14 of the foregoing, will have any right of action against the  
15 Debtors, the Debtors, or any of their respective present or former  
16 officers, directors, partners, employees, advisors, attorneys, or  
17 agents for any act or omission in connection with, relating to, or  
18 arising out of the Bankruptcy Cases, the pursuit of confirmation  
19 of the Plan, the consummation of the Plan, or the administration  
20 of the Plan or the property to be distributed under the Plan,  
21 whether now known or hereafter discovered, except for their  
22 willful misconduct.

23       7.17. General Injunction: Except as otherwise expressly  
24 provided in this Plan, the Confirmation Order shall provide,  
25 amount other things, that all parties-in-interest who have held,  
26 hold, or may hold Claims are permanently enjoined on and after the  
27 Effective Date from:  
28

1 (a) commencing or continuing in any manner any action or  
2 other proceeding of any kind with respect to any such Claim  
3 against the Debtors or any successor-in-interest of the Debtors;

4 (b) the enforcement, attachment, collection, or recovery  
5 by any manner or means of any judgment, award, decree or order  
6 against the Debtors or any successor-in-interest of the Debtors,  
7 property of the Debtors, or against property of any successor-in-  
8 interest of the Debtors with respect to any such Claim;

9 (c) creating, perfecting, or enforcing any encumbrance  
10 of any kind against the Debtors or any successor-in-interest of  
11 the Debtors, against property of the Debtors, or against property  
12 to any successor-in-interest of the Debtors with respect to any  
13 such Claim;

14 (d) from asserting any setoff, right of subrogation, or  
15 recoupment of any kind against any obligation due the Debtors or  
16 any successor-in-interest of the Debtors, against property of the  
17 Debtors, or against property of any successor-in-interest of the  
18 Debtors, with respect to any such Claim;

19 (e) conducting any form of discovery from the Debtors  
20 with respect to any such Claim, or any successor-in-interest of  
21 the Debtors; and/or

22 (f) harassing the Debtors or any successor-in-interest  
23 of the Debtors,

24 7.18. Interest: Whenever interest is to be computed under the  
25 Plan, interest will be simple interest and not compounded. Unless  
26 otherwise specifically provided for in the Plan or the  
27 Confirmation Order, post-petition interest shall not accrue or be  
28

1 paid on Claims, and no holder of a Claim will be entitled to  
2 interest accruing on or after the applicable Petition Date on any  
3 Claim.

4 7.19. Additional Assurance: The Debtors and any prty-in-  
5 interest holding Claims herein will execute such other further  
6 documents necessary to implement any of the provisions of the  
7 Plan.

8 7.20. Successors and Assigns: The rights and obligations of  
9 any Creditor or other party-in-interest referred to in the Plan  
10 will be binding upon, and will inure to the benefit of, the  
11 successors, assigns, heirs, devisees, executors, and personal  
12 representatives of such Creditor or party-in-interest.

13 7.21. Withdrawal of the Plan: The Plan may be withdrawn or  
14 revoked by the Debtors at any time before entry of the  
15 Confirmation Order.

16 7.22. Severability and Reformation: It is the intention of  
17 the Debtors to comply fully with the Bankruptcy Code and  
18 applicable non-bankruptcy law in proposing the Plan. Therefore, if  
19 any provision the Plan is determined by the Bankruptcy Court to be  
20 contrary to the Bankruptcy Code or applicable non-bankruptcy law,  
21 that provision will be deemed severed and automatically deleted  
22 from the Plan, if it cannot be reformed or the provision or  
23 interpretation of the provision will be deemed reformed to ensure  
24 compliance; provided, however, that nothing contained in this  
25 paragraph will prevent the Debtors from modifying the Plan in any  
26 manner whatsoever in accordance with and as set forth in the Plan.  
27 Pursuant to any ruling by the Bankruptcy Court regarding the  
28

1 subject matter of this paragraph, any such severance or  
2 reformation will be stated specifically in the Confirmation Order,  
3 which then will control notwithstanding any contrary or  
4 inconsistent provisions of the Plan.

5       7.23. Prohibition Against Prepayment Penalties: If the  
6 Debtors so chose, in their sole and absolute discretion, to prepay  
7 any obligation on which deferred payments are provided for under  
8 the Plan, the Debtors will not be liable or subject to the  
9 assessment of any prepayment penalty thereon unless otherwise  
10 ordered by the Bankruptcy Court. 7.24 Payment of Statutory Fees  
11 and Filing of Quarterly Reports: All fees payable pursuant to 28  
12 U.S.C. § 1980, as determined by the Bankruptcy Court at or in  
13 conjunction with the Confirmation Hearing, will be paid on or  
14 before the Effective Date and, thereafter, in accordance with  
15 applicable bankruptcy law. All quarterly reports of disbursements  
16 required to be filed by applicable bankruptcy law will be filed in  
17 accordance with applicable bankruptcy law.

18       7.25. Governing Law: Except to the extent the Bankruptcy Code  
19 is applicable, the rights and obligations arising under this Plan  
20 shall be governed by construed, and enforced in accordance with,  
21 and subject to, the laws of the State of Arizona, excluding any  
22 laws that result in the application of the laws of another  
23 jurisdiction.

24       7.26. Conflicts Between the Plan and Confirmation Order: In  
25 the event the terms of this Plan and the Confirmation Order  
26 conflict, the terms of the Confirmation Order shall govern. 06'

27       7.27. Binding Effect of Plan: The provisions of this Plan  
28

1 shall bind the Debtors and any Person holding a Claim against the  
2 Debtors and the Estate, whether asserted or non-asserted, and any  
3 Person asserting an Equity Interest in the Debtor or its  
4 Subsidiaries or Affiliates, and their respective successors and  
5 assigns, whether or not a Claim or Equity Interest of such Person  
6 arose before or after the Petition Date or the Closing Date,  
7 whether or not the Claim or Equity Interest is impaired under the  
8 Plan and whether or not such Person has accepted the Plan.

## 10 ARTICLE 8

### 11 DISPUTED CLAIMS; OBJECTIONS TO CLAIMS; and AVOIDING ACTIONS.

13 8.1. Time for Filing Claims: All proofs of claim and the  
14 assertion of any Claim in this Bankruptcy Case must have been  
15 filed by the Claims Bar Date or such Claim shall be forever  
16 barred.

17 8.2. Time for Filing Objections: The Debtors may file an  
18 objection to any Claim ("Claim Objection") prior to Plan  
19 Confirmation. After the Effective Date, the Reorganized Debtor may  
20 object to any Claim that has not been allowed by a final order of  
21 the Court, including any Claim that was not scheduled or was  
22 scheduled as disputed, contingent, or unliquidated.

23 8.3. Responsibility for Objecting to Claims: Only the Debtors  
24 and no other party may file a Claim Objection after the Effective  
25 Date of the Plan. The failure of the Debtors, prior to  
26 Confirmation, to object to a Claim shall in no way be deemed a  
27 waiver of the right to object to such Claim in whole or in part.



1 The Debtors reserve the right to contest and object to any Claim  
2 asserted against them.

3 8.4. Payment of Contested Claims: There shall be no  
4 Distribution to the holder of a Claim that has been disputed  
5 ("Contested Claim") until the objection to the Contested Claim has  
6 been resolved by a final order of the Bankruptcy Court and the  
7 Contested Claim has become an Allowed Claim. Payments and  
8 Distributions on account of each Contested Claim that subsequently  
9 becomes an Allowed Claim shall be made in accordance with the  
10 provisions of the Plan relating to the class of creditors to which  
11 the holder of the Allowed Claim belongs. Until a final order is  
12 entered allowing or disallowing a Contested Claim, funds shall be  
13 reserved based upon the pro rata share of Distributions that would  
14 be payable if the full amount of the Contested Claim were allowed,  
15 and withheld from Distribution to other creditors.

16 8.5. Objecting to Claims: Any objection to a Claim ("Claim  
17 Objection") shall be filed with the Bankruptcy Court and served  
18 upon the holder of each of the Claims to which a Claim Objection  
19 is made as set forth in the Bankruptcy Code and the Bankruptcy  
20 Rules. Notwithstanding anything set forth herein to the contrary,  
21 no Distribution shall be made on account of any Claim until such  
22 Claim is an Allowed Claim. A claimant whose Claim is the subject  
23 of a Claim Objection must file with the Bankruptcy Court and serve  
24 upon the Debtors response to the Claim Objection specifically  
25 addressing the allegations or issues raised in the Claim  
26 Objection. Failure to file or to serve a response to the Claim  
27 Objection within the applicable period required by the Bankruptcy  
28

1 Code, the Bankruptcy Rules or any Order of the Bankruptcy Court  
2 shall allow the Bankruptcy Court to enter a default judgment  
3 against the non-responding claimant granting the relief sought in  
4 the Claim Objection. After the Effective Date, the Reorganized  
5 Debtor shall be authorized to settle and compromise any and all  
6 Contested Claims without Bankruptcy Court approval.

## 8 ARTICLE 9

### 9 CLOSING OF CASE AND FINAL ORDER

10  
11 When the Plan has been fully administered, the Debtors shall  
12 file an Application for Entry of Final Decree and Order Closing  
13 Case (the "Application"). This case will be deemed fully  
14 administered when

15 (a) the order confirming the reorganization Plan has  
16 become final;

17 (b) all transfers contemplated by the Plan have been  
18 effected;

19 (c) all outstanding adversary proceedings and contested  
20 matters have been resolved;

21 (d) the Debtors have begun to manage their affairs; and

22 (e) payments to creditors have commenced. Upon entry of  
23 the Bankruptcy Court's Order approving the application of all  
24 Claims and causes of action arising out of and relating to the  
25 Debtors shall be deemed satisfied and forever barred. The Debtors  
26 shall be discharged from any further liability or obligation to  
27 the creditors, the Bankruptcy Court and Estate, except as  
28

1 specifically set forth in the Plan.

2 **ARTICLE 10**

3 **RETENTION OF JURISDICTION**

4 Notwithstanding the confirmation of this Plan and the  
5 occurrence of the Effective Date, the Bankruptcy Court shall  
6 retain jurisdiction for all matters arising out of, or related to,  
7 the Bankruptcy Case and this Plan, including, but not limited to,  
8 all of the following:

9 A. To determine, facilitate, or implement the allowance,  
10 disallowance, treatment, satisfaction, or payment of any Claim, or  
11 Equity Interest, in any portion thereof, pursuant to the Plan upon  
12 any objections thereto (or other appropriate proceedings) by the  
13 Debtors or by any other party-in-interest entitled to proceed in  
14 that manner;

15 B. To determine the allowance of Administrative Claims and  
16 expenses as well as any other fees and expenses authorized to be  
17 paid or reimbursed under the Bankruptcy Code or the Plan;

18 C. To determine any disputes regarding the fees, costs, and  
19 expenses of the Chapter 11 Professionals or any professionals or  
20 other Persons employed by the Debtors;

21 D. To resolve counterclaims against persons filing Claims;

22 E. To determine any dispute that may arise regarding the  
23 interpretation of any provisions of the Plan or that may arise  
24 from any and all documents or agreements relating to the Plan.

25 F. To facilitate the performance, implementation, and/or  
26 consummation of the Plan by entering, consistent with the  
27 provisions of the Plan, any further necessary or appropriate  
28

1 orders regarding enforcement of the Plan and any provision  
2 thereof.

3 G. To determine any and all claims arising from rejection of  
4 unexpired leases and other executory contracts;

5 H. To authorize and approve any sales of the Debtors' Assets  
6 free and clear of all liens, claims, interests, or encumbrances  
7 and to authorize and approve any refinance transactions in  
8 accordance with the terms of the Plan, to the extent that  
9 Bankruptcy Court approval of the proposed sale or refinance  
10 transaction is required under the terms of the Plan;

11 I. To resolve of any and all applications, adversary  
12 proceedings, and contested or litigated matters pending before the  
13 Court as of the Effective Date;

14 J. To resolve any complaints for recovery of assets or  
15 avoidance of transfers pursuant to the relevant provisions of the  
16 Bankruptcy Code;

17 K. To modify the Plan as may be necessary pursuant to the  
18 Bankruptcy Code;

19 L. To enter any order, including injunctions, necessary to  
20 enforce or protect the title, rights, and powers of the Debtors or  
21 the Estate under the Plan;

22 M. To grant discharge to the Debtors pursuant to 11 U.S.C. §  
23 1141(d)(5)(B) if applicable;

24 N. To adjudicate any dispute or to hear and determine any  
25 action taken, proposed, or threatened by any state, federal, or  
26 local governmental agency or unit having or asserting jurisdiction  
27 or power over the conduct of the business of the Debtors,  
28

1 including but not limited to, any governmental unit's claim with  
2 respect to any tax, or any fine, interest or penalty relating to a  
3 tax.

4 0. In the event of an appeal of the Confirmation Order or any  
5 other kind of review or challenge to the Confirmation Order, and  
6 provided that no stay of the effectiveness of the Confirmation  
7 Order has been entered, implement and enforce the Confirmation  
8 Order and the Plan according to their terms, including, but not  
9 limited to, jurisdiction to enter such orders regarding the Plan  
10 or the performance thereof as may be necessary to consummate the  
11 Plan; and

12 P. To enter a final decree closing the case.

## 14 ARTICLE 11

### 15 MODIFICATION OF THE PLAN

16  
17 11.1. Modification of Plan: The Plan may be modified by the  
18 Debtors from time to time in accordance with, and pursuant to  
19 § 1127 of the Bankruptcy Code. The Debtors may modify the Plan at  
20 any time before confirmation, provided that the Plan, as modified,  
21 meets the requirements of § 1122 and 1123 of the Bankruptcy Code.  
22 In addition, the Debtors may also elect to withdraw the Plan from  
23 further Court consideration. The Court may require a new  
24 Disclosure Statement and/or re-voting on the Plan if the Debtors  
25 modify the plan before confirmation. The Debtors may also seek to  
26 modify the Plan at any time after confirmation so long as (1) the  
27 Plan has not been substantially consummated and (2) the Court  
28

1 authorizes the proposed modifications after notice and a hearing.

2 A. Effect of Modification of the Plan: Every  
3 modification of the Plan will supersede the previous version of  
4 the Plan as and whenever each modification is effective. When  
5 superseded, the previous version of the Plan will be null, void,  
6 and unusable by the Debtors or any other party for any purposes  
7 whatsoever with respect to any of the contents of such version of  
8 the Plan.

## 9 ARTICLE 12

### 10 CONFIRMATION OF THE PLAN

11  
12 12.1. Confirmation Despite Rejection (Cramdown): Pursuant to  
13 11 U.S.C. § 1129(b), the Debtors request that the Court confirm  
14 the Plan as to any class of Claims that does not accept the Plan  
15 by finding that:

16 (a) The Plan does not discriminate unfairly;

17 (b) The Plan is fair and equitable with respect to each class  
18 of Claims or interests that is Impaired and has not accepted it;  
19 and;

20 (c) each holder of a Claim receives or retains on account of  
21 its Claim, property of a value that is not less than it would  
22 receive if the Debtors were liquidated under Chapter 7 of the  
23 Bankruptcy Code and that the Plan satisfies the "best interest of  
24 creditors" test set forth in 11 U.S.C. § 1129(a)(7). The Debtors  
25 believe, with respect to the Plan, all three requirements are met.  
26 If a class of Secured Claims does not accept the Plan, the  
27 Bankruptcy Code provides that the fair and equitable standard is  
28

1 satisfied, if each claimant retains its lien and receives deferred  
2 cash payments of a present value equal to the value of its secured  
3 interest as defined in 11 U.S.C. § 506(a). The Debtors believe  
4 that this requirement is met as to Secured Claims; because the  
5 Plan provides for all secured creditors to retain their liens and  
6 the Debtors do not believe there are any secured creditors who  
7 will not receive the full value of their Allowed Secured Claims.  
8 If a class of Unsecured Claims does not accept the Plan, the fair  
9 and equitable standard requires that holders of junior interests  
10 receive nothing, unless unsecured creditors receive deferred cash  
11 payments of a present value equal to the amount of their Claims.  
12 The Plan complies with this requirement of the Bankruptcy Code.  
13 The Debtors request that the Bankruptcy Court find that even if a  
14 class of Secured Claims does not accept the Plan, the Plan  
15 satisfies the fair and equitable standard of the Bankruptcy Code  
16 because each claimant retains its lien and receives deferred cash  
17 payments of a present value equal to the value of its secured  
18 interest so that the objections, if any, of any class of Secured  
19 Claims should be overruled. The Debtors further request that the  
20 Bankruptcy Court find that even if a class of Unsecured Claims  
21 does not accept the Plan, the Plan satisfies the fair and  
22 equitable standard of the Bankruptcy Code because the holder of  
23 any claim that is junior to the claims of unsecured creditors will  
24 receive no property except to the extent that the Debtors may  
25 retain property included in the Estate under 11 U.S.C. § 1115, so  
26 the objections, if any, of any class of Unsecured Claims, should  
27 be overruled.  
28


1  
2 RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_,  
3 2010.

4 **JAMES E. BROWN, P.C.**

5  
6 By \_\_\_\_\_  
7 James E. Brown  
8 2111 East Highland Avenue  
9 Suite 145  
10 Phoenix, AZ 85016-4732  
11 Attorney for Debtors

12 ORIGINAL of the foregoing  
13 **electronically** filed this  
14 \_\_\_\_\_ day of \_\_\_\_\_, 2010  
15 with the U.S. Bankruptcy Court.

16 Approved:


17   
18 Joseph P. Palmisano

19   
20 Amy K. Palmisano  
21  
22  
23  
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2  
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4  
5  
6 RESPECTFULLY SUBMITTED this 14th day of September, 2010.

7 **JAMES E. BROWN, P.C.**

8  
9 By  s/s James E. Brown  
10 James E. Brown  
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Attorney for Debtors

12 ORIGINAL of the foregoing  
13 **electronically** filed this  
14 14th day of September, 2010  
with the U.S. Bankruptcy Court.

15 Approved:

16 Joseph P. Palmisano

17  
18  
19 Amy K. Palmisano